

SPCC Plans for Aboveground Oil Storage Tanks

The Basics of the Law:

Link: to the Office of the Revisor of Statutes' web site to view the law, 38 M.R.S.A. section 570-K(5):

<http://janus.state.me.us/legis/statutes/38/title38sec570-K.html>

Legislative Intent: The new law is intended to strengthen compliance with existing federal SPCC regulations by authorizing the Maine DEP to enforce those regulations as they pertain to facilities used for marketing or distribution of oil.

Background:

Federal Regulation

Existing federal statutes under the Clean Water Act and federal regulations under 40 CFR 112 require Spill Prevention Control and Countermeasures (SPCC) plans for aboveground oil storage facilities having a total aboveground storage capacity exceeding 1,320 gallons. The purpose of the federal regulations is to prevent oil spills from reaching "navigable" waters, which are broadly defined to include water bodies used for both commercial and recreational purposes. The federal rules apply to those facilities that "can be reasonably expected to spill into navigable water." This definition includes not only those facilities that could potentially discharge directly to navigable waters, but also facilities that could discharge indirectly to navigable waters via some pathway such as a storm sewer or tributary. U.S. Environmental Protection Agency (EPA) representatives have indicated that all, or virtually all, Maine facilities exceeding 1,320 gallons of aboveground oil storage capacity fall within the scope of federal regulations and are required to have SPCC plans. The federal regulations were recently revised, effective August 16, 2002. For more information on the federal regulations see the following EPA web site: <http://www.epa.gov/oilspill/faqs/spccfaqs.htm>

State Law

In 2000, the Maine DEP was directed by the Legislature to convene a Task Force to review existing regulations regarding aboveground oil storage facilities. The Task Force reported back to the Legislature in January 2002. The Task Force concluded that existing federal regulations provide adequate protection from oil spills from aboveground facilities, but that federal enforcement of these regulations was not adequate. To address

this deficiency, the new law authorizes the Maine DEP to enforce compliance with existing federal SPCC regulations. It does not expand the existing federal regulatory program.

The Purpose of the State Law

EPA's regulations do not expressly address threats to groundwater or to natural resources other than surface water. However, spills from aboveground oil storage tanks (ASTs) in Maine have discharged to the groundwater and have led to drinking water well contamination. As of August 2001, the Maine DEP had spent approximately \$2 million dollars linked to 707 oil spills from non-residential, non-marine oil ASTs that occurred from 1995 through 1999. Spill reports confirm that the largest number of these spills were heating oil releases at wholesale bulk plants, while the most costly AST spills were due to gasoline releases at AST retail gas stations. Bulk plants are involved in the loading and unloading of relatively large volumes of heating oil whereas retail AST stations tend to be sited in proximity to private wells and gasoline moves faster and farther than other petroleum products. Thirteen gasoline spills at retail gas stations and bulk plants from 1995 through 1999 have cost over \$900,000 to date for clean up. The law addresses the fact that properly written and executed Spill Prevention Control and Countermeasure (SPCC) plans can prevent both the number and extent of oil spills, protecting groundwater and reducing state expenditures for clean-up of spills.

Frequently Asked Questions:

What is a SPCC Plan?

A SPCC plan specifies measures to prevent oil spills from a given oil storage facility. It also specifies procedures to be followed in the event an oil spill does occur. A SPCC plan addresses the design and construction of the facility, regular inspections, training of personnel, spill response, reporting and cleanup procedures, and a spill response contact list.

Generally, an SPCC plan is required to include the following: 1) a description of the facility including a summary of the tanks, piping and drums, etc., as well as drainage paths and potential spill scenarios; 2) spill prevention measures (training, inspections and testing procedures; 3) control measures (diking and overfill devices); and 4) counter-measures (clean-up equipment and procedures, spill reporting procedures). The SPCC plan is required to be reviewed and amended as necessary every 5 years. The plan review should include an evaluation of new prevention and control technology that may have become available since the development or last review of the SPCC plan. The plan must be amended to include any facility changes that materially affect the facility's potential to discharge (e.g., additional tanks, fueling areas, etc.). The plan must also be amended as necessary to address causes of any past discharges at the facility and/or to bring the facility up-to-date with current technology. A Professional Engineer must certify the SPCC plan, as well as any amendments. The facility is required to keep a copy of the

SPCC plan on site, but there is currently no requirement to submit SPCC plans to either the EPA or to the Maine DEP.

For more details on the components of an SPCC plan see the SPCC Plan Guidance document and the Model SPCC Plans for Retail Facilities and Bulk Facilities.

Provide links here to Guidance Document & Model Plans]

Which facilities must meet the SPCC requirements?

The federal regulations apply to any oil storage facility with a total aboveground storage capacity greater than 1,320 gallons, while the state law applies only to such tanks that are used for marketing or distribution of oil. Total aboveground storage capacity includes completely aboveground tanks, partially buried tanks, seasonal/temporary aboveground tanks, and tanks encased in a vault installed below ground. Only containers with a capacity of 55 gallons or more are counted towards the total aboveground storage capacity of the facility. “Permanently closed” tanks i.e., empty tanks where all connecting piping has been disconnected and all valves have been closed and locked, are not counted towards the total aboveground storage capacity of the facility.

Facilities subject to the state law include retail gas stations and bulk plants. If the Maine DEP believes that a facility’s plan does not meet the federal regulations, the state law requires the Department to consult with the EPA as to the legal adequacy of the plan and any amendments necessary to bring the facility into compliance. In general, the DEP will only enforce the federal SPCC rules at retail gas stations and bulk plants but this does not preclude routine enforcement at other AST facilities for spills and clean-up, or requiring SPCC plans as part of consent agreements resulting from illegal actions, as has been done in the past.

Which facilities are exempt from the SPCC requirements?

Under recent changes to the federal regulations, all underground storage tanks are exempt from SPCC requirements. However, underground tanks must meet the requirements of Chapter 691 of the Maine DEP’s regulations which establishes standards for installation, operation and closure of underground oil storage facilities, and specifies requirements for reporting and clean-up of oil discharges at these facilities. To view Chapter 691 regarding underground oil storage facilities, see the Secretary of State’s web site: <ftp://ftp.state.me.us/pub/sos/cec/rcn/apa/06/096/096c691.doc> If a facility has both aboveground tanks and underground tanks, and is required to have an SPCC plan for its aboveground facilities, all underground tanks must also be shown on the facility diagram required as part of the SPCC plan.

The SPCC requirements do not apply to facilities storing only liquid propane or natural gas, or to residential home heating oil tanks.

What is the deadline for having a SPCC Plan in place and implemented?

The deadlines for bringing facilities into compliance with the current federal SPCC regulations have recently been extended. Under these extended deadlines, facilities in operation on or before August 16, 2002 must amend their SPCC plans as necessary to comply with the current regulation by August 17, 2004, and the revised plan must be implemented by February 18, 2005. For facilities that became operational after August 16, 2002 through February 18, 2005, an SPCC plan in compliance with the current rule must be developed and implemented by February 18, 2005. For facilities that become operational after February 18, 2005, an SPCC plan must be developed and implemented prior to operation.

What other requirements apply to aboveground tanks?

Generally, a permit from the State Fire Marshal's Office is also required for all facilities having aboveground tanks greater than 60 gallons of storage capacity. However, a facility with a single tank of 660 gallons capacity or less, containing K-1, kerosene or diesel, need only be registered with the State Fire Marshal's Office with no fee required.

The State Fire Marshal's Office requires any aboveground piping to meet National Fire Protection Association (NFPA) Standard 30, which regulates the design, construction and maintenance of aboveground piping systems. Underground piping is subject to the requirements of Chapter 691 of the Maine DEP's rules regarding underground oil storage facilities. These rules require that underground piping be of cathodically protected steel, fiberglass, or other noncorrosive materials, and have secondary containment with continuous leak detection.

Oil storage facilities may also be subject to local zoning and land use ordinances. You should contact your local town office for information on any applicable local ordinances; or if your facility is located in an unorganized territory contact the Maine Land Use Regulation Commission.

Will I get inspected?

The Maine DEP and the Legislature are aware that many facilities are not familiar with the existence or extent of the SPCC requirements. Accordingly, the state law requires the Department to prepare educational and technical materials for use by owners and operators of facilities, which are subject to the state law. The Maine DEP has developed model SPCC plans for AST retail gas stations, retail gas stations with both ASTs and USTs, and small AST bulk oil facilities. Additional material and training will be available soon. Because of the need for education and outreach, the state SPCC program will initially be focused on technical assistance, including inspections to facilitate compliance, rather than on enforcement action. Technical assistance inspections will start in 2003.

What should I do now?

If you operate a retail AST facility or wholesale bulk oil plant you should contact a professional engineer, knowledgeable in the design of aboveground storage facilities, to review your existing plan for compliance with current regulations, and revise the plan as needed. If you are planning to construct a new facility, or your existing facility does not have a SPCC plan, contact a knowledgeable professional engineer to help you develop one. See the model SPCC plans as examples when developing or amending your SPCC plans.

For more information: Please call Sara Brusila of the DEP's Technical Services Division at 287-4804 or by e-mail at: sara.brusila@Maine.gov.